THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.2992 OF 2007

DATED: 12-04-2007

BETWEEN;

D.Dastagiramma wife of D.Babu

..Petitioner

VS.

The District Collectior, Annatapur and others

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.2992 OF 2007

ORAL ORDER

The petitioner assails the order of the 1st respondent dated.03-02-2007 confirming the order of the 2nd respondent dated.30-11-2006. She is a resident of B.Kothapalli Village, B.K.Samudram Mandal, Anantapur District and a cardholder bearing ration card No. WAP 122600400056. She is drawing essential commodities from the fair price shop No.4 of which the 5th respondent is the authorizee.

There was a complaint of the 3rd respondent as regards the irregularities committed by the 5th respondent in distributing the essential commodities to the cardholders. The complaint was enquired into by the 4th respondent, and submitted a report to the 3rd respondent on 18-08-2006. On the basis of the report furnished by the 4th respondent and on the allegations contained therein the 3rd respondent by an order dated 21-08-2006 suspended the authorization granted infavour of the 5th respondent. The order of suspension of authorization also asserted that the 3rd respondent would issue a show cause notice soliciting the explanation of the 5th respondent shortly. In fact on 21-08-2006 itself the 3rd respondent served a show cause notice on the 5th respondent setting out four charges, of failing to make entries in the stock register for the month of July,2006 and thereby violating the conditions of authorization; that on

physical verification of the ground balance of the stocks compared to the sales register, large scale variations in kerosene oil and PDS rice was seen which permits an inference that the 5th respondent had diverted the stock to the black market; that on a random verification the 5th respondent is seen to have failed to distribute the commodities to specified card holders and has thereby perhaps diverted the stock to the black market; and that the 5th respondent failed to display the price list-cum-stock board in the premises of the fair price shop as well as the board indicating the name of the fair price shop.

Aggrieved by the order of suspension pending enquiry (dated.21-08-2006 passed by the 3rd respondent), the 5th respondent preferred an appeal to the 2nd respondent. By an order dated.30-11-2006, the 2nd respondent allowed the appeal of the 5th respondent and set aside the order of the 3rd respondent dated.21-08-2006. The appellate order of the 2nd respondent is a grossly perverse order; to the extent relevant and material it reads as under:-

> "The brief facts of the case is as follows:
> Consequent on receipt of complaint petition from the card holders of B.Kothapalli Village, B.K.Samudram mandal against Sri B.Gopal Reddy, F.P. Shop dealer B.Kothapalli village, the Mandal Revenue Officer, B.K.Samudram has enquired into the matter and found that the F.P. Shop dealer has committed certain grave irregularities in distribution of essential commodities to the card holders.
> Based on the report of the Mandal Revenue Officer, B.K.Samudram vide R.C.No.B/441/06 dated 18.08.2006, the Revenue Divisional Officer, Ananthapur has issued a show cause notice to the F.P. Shop dealer framing four charges calling for his explanation and suspension order separately vide Rc.No.D1/CS/1356/06 dated 21.8.2006.
> The case was called on 16.10.2006 and heard in the presence of counsel for the appellant and caveator.
> Upon perusing the grounds of appeal; caveat petition, record of lower

court and after hearing the arguments of the counsel for the appellant and caveator the following order is made.

O R D E R:

As seen from the record, the changes framed against the dealer are grave in nature, which relates to

1) Failed to make entries in the stock register for 7/2006.
2) Variation of stocks found when compared the ground balance with reference to sales register.
3) Failed to distribute the Essential Commodities to some card holders and
4) Failed to display the stock cum price list board

The Revenue Divisional Officer, Anantapur has issued a show cause notice and suspension made to the appellant dealer separately vide Rc.No.D1/CS/1356/06 dated 21.8.2006 framing four charges and calling for his explanation which is based on the detailed enquiry report of Mandal Revenue Officer, B.K.Samudram.

The Revenue Divisional Officer, Anantapur has issued orders suspending the F.P. Shop authorisation held by the appellant dealer "considering the gravity of the irregularities which are trivial in nature." Accordingly the appeal is disposed off. The order of the Revenue Divisional Officer, Anantapur dated 21.8.2006 is set aside."

There against the petitioner preferred a revision to the 1st respondent. The 1st respondent by the order dated.03-02-2007 rejected the revision and confirmed the order of the 2nd respondent. The 1st respondent recorded that the charges on which the authorization was suspended are trivial in nature and do not warrant suspension of the authorization. As is clearly apparent from show-cause notice issued by the 3rd respondent dated.21-08-2006 there are serious charges that the 5th respondent had failed to record entries in the stock register, there were large variations in the ground stock as compared to the stock register and the 5th respondent had also failed to distribute the commodities to the card holders besides failure to display the price list–cum-stock board.

Insofar as the 2nd respondent is concerned the 2nd

respondent-the appellate authority had passed an order which is laconic, non-speaking and perverse. It fails to set out any analysis and fails to record any reasons. The 2nd respondent as a public servant is not authorized to issue ipse dixits. The 2nd respondent is exercising quasi-judicial functions and is required and obligated in law to record reasons for exercising the appellate jurisdiction. When a revision is preferred to the 1st respondent against such order of the 2nd respondent it is the duty and obligation of the 1st respondent to go into the validity of the appellate order passed.

It is in such hierarchical examinations that quasi-judicial discipline is maintained and the purity of administration sub- served. The 1st respondent in a casual approach has merely recorded that the allegations/charges of which the 5th respondent was suspended are trivial in nature. He has almost replicated the appellate order of the 2nd respondent without an independent analysis. There is no discussion in the order of the 1st respondent that vouchsafes any application of mind or discloses the respondent's sensitivity to the fact that he was exercising quasi-judicial revisional powers.

Public distribution system is not a ritual government exercise. It is a serious aspect of governance where the State undertakes affirmative programmes for the benefit of the poorer sections of the society. Proper and regulated behaviour by fair price shop dealers and authorisees is the *sine qua non* for proper utilization of public funds. Fair price dealers authorized to sell commodities must be regulated and supervised to ensure that the PDS function efficiently. Failure on this aspect imposes unnecessary and unlawful burden on every tax-payer. Respondent Nos.1 to 4 do not preside over a private empire. They are components of the permanent bureaucracy and are required to

function with a sensitivity of such obligation.

The appellate order of the 2nd respondent and the revisional order of the 1st respondent are wholly perverse and non-speaking and illustrative of a casual and negligent approach to a serious public function. By such casual approach not only is due governance and the rule of law at peril but the petitioner, a cardholder who is the recipient of a State guaranteed service has also suffered.

For the aforesaid reasons the writ petition is allowed. The appellate order of the 2nd respondent dated.30-11-2006 bearing reference No.D.Dis.No.K4/ATP/520/06 and the revisional order of the 1st respondent dated.03-02-2007 bearing reference No. D.Dis.No.K4/ATP/727/2006 are quashed. The appeal is remanded for a fresh consideration by the 2nd respondent who is directed to dispose of the appeal within thirty (30) days from the date of receipt of a copy of this Order recording a due and well reasoned order in exercise of his appellate jurisdiction.

As the appellate and revisional authorities have passed grossly negligent orders, this Court considers it appropriate to allow the writ petition with costs of Rs.10,000/-(Rupees Ten Thousand only) of which Rs.5000/- shall be paid to the petitioner and Rs.5000/- to the Secretary A.P.State Legal Services Authority, Hyderabad. It is open to the State Government to identify the Officers responsible for mulcting the public exchequer with these avoidable costs and to recover it from them after following the due process of law.

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GODA RAGHURAM,J

12th APRIL,2007

***TSNR**